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Notice of Allowability

Application No.

10/648,628

Examiner

Joseph Schell

Applicant(s)

CHAN ET AL.

Art Unit

2114

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 9/4/07.
2. ☒ The allowed claim(s) is/are 1-34.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Michael Bentley on November 14, 2007.

Claims 4, 17 and 26 have been amended as follows:

4. The method of claim 1, wherein said step of identifying comprises the step of:
defining said network degradation event as a brink of failure (BOF) event in an instance where said network event is at least one of a type determined to cause a failure of at least one network element within a predetermined time interval, ~~a type determined to affect at least one critically defined network functionality, and a type determined to affect a number of end users exceeding a predetermined threshold level~~ and a type determined to cause a failure of at least one communication link within a predetermined time interval.

17. A method for managing a network, comprising the steps of:
detecting occurrence of a network event, said network event having associated with it a network condition comprising at least one of an unplanned macro-event and a planned macro-event related to at least one of a network element and a communication link of said network;
classifying said network event as being at least one of a network element failure, a communications link failure, and a security breach;

identifying said network event as a network degradation event in response to at least one network event exceeding a network degradation threshold by defining said network degradation event as a brink of failure (BOF) event in an instance where said network event is at least one of a type determined to cause a failure of at least one network element within a predetermined time interval, ~~a type determined to affect at least one critically defined network functionality, and a type determined to affect a number of end users exceeding a predetermined threshold level~~ and a type determined to cause a failure of at least one communication link within a predetermined time interval;

determining whether said BOF event also causes a BOS event; and
sending an alert to normalize said network degradation event.

26. The apparatus of claim 24, wherein said means for identifying comprises:

means for defining said network degradation event as a brink of failure (BOF) event in an instance where said network event is at least one of a type determined to cause a failure of at least one network element within a predetermined time interval, ~~a type determined to affect at least one of a critically defined network functionality, and a type determined to affect a number of end users exceeding a predetermined threshold level~~ and a type determined to cause a failure of at least one communication link within a predetermined time interval.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

Within the entirety of each claim, the examiner deems the novel limitation to be that, if the network degradation event is identified as a BOF event, a determination is made as to whether the BOF event causes a BOS event.

The examiner additionally notes that a BOF event, as explicitly defined in the specification, is not a failure event itself, it is the indication of a pending failure (page 4 of the specification). Therefore, as interpreted from the claims, the determination of whether the BOF causes a BOS event is dependent, not on a failure itself, but on the preemptive failure recovery actions (for recovering from the "brink" of failure), that may cause a BOS. This is in view of Figure 5D and the Figure's description in the specification about how a BOF fix creates a BOS.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Schell whose telephone number is (571) 272-8186. The examiner can normally be reached on Monday through Friday 9AM-4:30PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman can be reached on (571) 272-3644. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JS



GABRIEL CHU
PRIMARY EXAMINER